
(2017) 07 UK CK 0049
In the Uttarakhand High Court
Case No : 1774 (M of S) of 2017

Vijendra Nath Gupta

APPELLANT

Vs

Parvati Prema Jagati Saraswati Vihar

RESPONDENT

Date of Decision : 24-07-2017

Acts Referred:

Citation : (2017) 07 UK CK 0049

Hon'ble Judges : U.C. Dhyani

Bench : Single Bench

Advocate : M.S. Pal, Bharat Tewari

Final Decision : Disposed

Judgement

1. By means of present writ petition, the petitioner seeks following reliefs, among others:

(i) issue a writ, order of direction, setting aside the order dated 21.07.2017, passed by learned District Judge, Nainital, in Misc. Civil Appeal no. 18 of 2017, Vijendra Nath Gupta vs Parvati Prema Jagati Saraswati Vihar and another, to the extent that the learned Appellate Court though registered the matter as misc. civil appeal, but declined to stay the transfer order passed by the respondents (Annexure no. 7 to the petition). (ii) issue a writ, order or direction in the nature of mandamus commanding the respondents not to transfer the petitioner in the garb of the said orders passed by the respondents which have been challenged in misc. civil appeal no. 18 of 2017.

2. Petitioner has come before this Court being aggrieved against the order dated 21.07.2017, passed by learned District Judge / Educational Tribunal, Nainital, in Misc. Civil Appeal no. 18 of 2017, whereby the Tribunal has issued notices to the respondents. The petitioner approached the Educational Tribunal being aggrieved against his transfer. He also moved an application for ad- interim stay, on which learned Educational Tribunal directed issuance of notices to the respondents. 25.07.2017 is fixed for hearing of ad-interim stay application along with

objections thereon.

3. Instead of waiting for the date fixed, i.e., 25.07.2017 and pressing his case before the Educational Tribunal, the petitioner has directly approached this Court in present writ petition.

4. Petitioner is well advised to appear before the learned Educational Tribunal tomorrow, i.e. 25.07.2017, to place his case. Learned Educational Tribunal is requested to decide the application of the petitioner along with objections, if any, on the said date. The petitioner has taken up a plea that he has been transferred in mid session, which will adversely affect the education of his son, who is studying in class XII in the respondent school.

5. Since 25.07.2017 has already been fixed by the Educational Tribunal for disposal of ad-interim stay application of the petitioner along with objections, therefore, this Court relegates the petitioner back to the Educational Tribunal, where his grievances will be heard and decided by the said Tribunal, at an early date.

6. Since the petitioner has not been transferred till date, therefore, it is directed that his transfer shall not be made effective till tomorrow, i.e., 25.07.2017. Stay of the transfer of the petitioner for a day is without prejudice to the rights and contentions of the respondents. The same shall not be extended by the Educational Tribunal simply on the ground that this Court has passed such an order.

7. At this stage of dictation, learned Senior Counsel appearing on behalf of the petitioner submitted that petitioner's representation is pending decision before respondent no. 1, who may be directed to decide such representation at an early date. Such innocuous prayer made on behalf of the petitioner is worth accepting.

8. Present writ petition is disposed of at the admission stage itself by directing respondent no. 1 to decide the pending representation made by the petitioner at an early date, preferably within a period of three weeks from the date of presentation of certified copy of this order before him.